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BY EMAIL

September 19, 2021

Honorable P. Kevin Castel
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Virgil Griffith*
20 Cr. 15 (PKC)

Dear Judge Castel:

We write to follow up on defendant Virgil Griffith's September 2, 2021 request for the Court's permission to transfer certain of Mr. Griffith's cryptocurrency assets to counsel to pay legal fees in connection with this case and upcoming trial. (Dkt. No. 142.) As discussed at the final pretrial conference on September 14, 2021, we have attached a revised proposed order, attached as Exhibit A, which we respectfully request the Court enter as soon as possible. It is critical that the Court grant this order in light of the impending trial date and Mr. Griffith's need to put on a defense.

As the Court knows, a significant portion of Mr. Griffith's savings is contained in cryptocurrency assets. Mr. Griffith has signed a letter permitting assets maintained in the U.S.-based exchange, Coinbase, to be transferred to counsel for the purposes of paying legal fees. The revised order reflects that there is nothing in this case that prohibits Coinbase's ability to effect Mr. Griffith's request to transfer the assets. As the Court requested, the revised order does not prevent Coinbase from satisfying any possible liens or encumbrances (although the defense is aware of none, including from communications with Coinbase).

The government has confirmed that there is no seizure warrant or other legal process that it has placed on the account. In case the government chooses to oppose this application, the defense wishes to note the following: The government has seized all of Mr. Griffith's devices that he used for work and personal correspondence, including his iPhone, iPad, and laptop, and has forensically analyzed and reviewed those devices. The government also subpoenaed his



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email and social media accounts, including accounts at Apple (iCloud), Google, Facebook, Telegram, Twitter, etc. It even obtained certain devices from Singapore that it asserts were Mr. Griffith's. There are literally terabytes and terabytes of data. But in all of this data, the government has not found any evidence that Mr. Griffith received any assets or remuneration connected to his trip to the DPRK, because such evidence does not exist. Indeed, the recent motions *in limine* lay out the government's evidence, and make clear that none of the government's claims have anything to do with money being paid to Mr. Griffith. In addition, before the final pretrial hearing, the only reason the government ever articulated to deny Mr. Griffith access to his assets was the desire to mitigate flight risk, which cannot now be a concern given that Mr. Griffith is incarcerated. Indeed, transferring the balance of this account to counsel would further mitigate any such concern. Moreover, balanced against the government's (unsupported) concern is Mr. Griffith's important Sixth Amendment right to counsel, and to pay such counsel, and he needs access to his assets to do so.

It is counsel's understanding that Coinbase froze the account at or near the time of Mr. Griffith's arrest out of an abundance of caution in the event they would receive legal process concerning the account, and it has remained frozen since that time. As noted in the original letter motion, Coinbase has indicated to defense counsel a preference for closing the account.,

Accordingly, Mr. Griffith respectfully requests that the Court enter the revised proposed order.

As always, the undersigned are available to answer any questions the Court may have.

Respectfully yours,

Brian E. Klein
Keri Curtis Axel
Waymaker LLP

-and-

Sean S. Buckley
Kobre & Kim LLP

Attorneys for Virgil Griffith

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
Plaintiff, :
v. : 20 Cr. 015 (PKC)
VIRGIL GRIFFITH, : [Proposed] Order re Coinbase
Defendant. :

Upon the application of defendant Virgil Griffith and finding good cause therefor, this Court **ORDERS** that there is nothing in the above-captioned case that prohibits the transfer of any and all cryptocurrency maintained by Coinbase in any account (or accounts) in the name of Virgil Griffith (date of birth [REDACTED] and user ID numbers [REDACTED] and [REDACTED]) to the attorney trust account of defendant's counsel of record, Waymaker LLP, pursuant to wiring instructions that Waymaker LLP shall provide to Coinbase.

Dated: New York, New York
_____, 2021

SO ORDERED

HONORABLE P. KEVIN CASTEL
UNITED STATES DISTRICT JUDGE